

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of the application of American)
Network Exchange, Inc. for a certificate of)
service authority to provide intrastate) Case No. TA-91-234
operator-assisted resold telecommunications)
services within the State of Missouri.)

In the matter of the application of American)
Network Exchange, Inc. for a certificate of)
service authority to operate as a reseller) Case No. TA-91-235
of competitive interexchange telecommunications)
services within the State of Missouri.)

APPEARANCES: Ellen Scheuchter, Esq., American Network Exchange, Inc., 100 W.
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HEARING

EXAMINER: Janet L. Sievert

REPORT AND ORDER

On December 20, 1990, American Network Exchange, Inc. (AMNEX) filed its verified application for a certificate of service to provide operator-assisted resale intrastate telecommunications services within the State of Missouri. Simultaneously with the above application, AMNEX filed a verified application seeking authority to operate as a reseller of competitive interexchange telecommunications services within the State of Missouri. The two applications were docketed as Case Nos. TA-91-234 and TA-91-235, respectively. The Commission issued its Order and Notice on January 2, 1991, directing the Executive Secretary to send notice of these applications.

On May 1, 1991, the Staff of the Missouri Public Service Commission (Staff) filed its memorandum recommending approval of these applications. In support of its recommendation, Staff provided all information ordered in the Commission's Order and Notice dated January 2, 1991.

On May 7, 1991, the Office of the Public Counsel (Public Counsel) filed a reply to Staff's recommendation requesting a hearing in this matter unless the Commission clearly indicates in its Order Approving Certification that AMNEX may not recover aggregated surcharges through its local exchange company (LEC) billing agreements.

On May 15, 1991, AMNEX filed a letter with the Commission in response to Public Counsel's reply to Staff's recommendation indicating that it would obey the necessary Missouri laws dealing with recovery of surcharges.

On May 28, 1991, Public Counsel replied to AMNEX's letter stating that the letter failed to state whether or not it will collect payphone toll surcharges through its billing agreement with LECs. Therefore, Public Counsel continued to request a hearing in this matter.

On May 31, 1991, AMNEX filed a letter with the Commission in which it agrees that it will not collect payphone toll surcharges through billing arrangements with LECs. AMNEX did state that if the law changes, the Company, at that time, may elect to collect payphone surcharges through billing arrangements with LECs.

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

Pursuant to Section 392.440 and 386.020(1), RSMo Cum. Supp. 1990, Applicant requests authority to provide intrastate interexchange telecommunications services and alternative operator services in the State of Missouri. Pursuant to AMNEX's proposed tariff, the operator assisted, intrastate rates are equal to or less than AT&T's current intrastate rates. Pursuant to Section 392.361, RSMo Cum. Supp. 1990, Applicant also requests that the Commission classify it as a competitive telecommunications company.

The requirement of a hearing has been fulfilled when all those having a desire to be heard are offered such an opportunity. In this case, notice was sent by

the Executive Secretary of the Commission to any persons or entities known to the Telecommunications Department of the Public Service Commission to be rendering identical or similar services within the service area proposed by this application, as well as to each telephone company rendering local exchange service in Missouri. Interested persons or entities were directed to intervene on or before February 1, 1991. No proper party or governmental entity filed an application to intervene.

The issues raised in Public Counsel's motion requesting a hearing of May 7, 1991 and May 28, 1991 were satisfied by AMNEX's letter filed May 31, 1991, agreeing not to collect payphone toll surcharges through billing arrangements with LEC's. The Commission determines that a hearing is not necessary.

The Commission finds that Applicant is a New York corporation authorized to do business in the state of Missouri, with its principal office or place of business located at 5 High Ridge Park, Stamford, Connecticut. The Commission further finds that Applicant has filed current financial information and a brief description of the type of service it proposes to provide, and has agreed to comply with all applicable rules and regulations of the Commission and any terms and conditions which the Commission may impose. By memorandum filed herein Staff recommends that the Commission grant Applicant a certificate of service authority.

Based upon the verified statements of Applicant and the recommendations of Staff, the Commission finds that Applicant is qualified to perform the service proposed. Pursuant to Sections 392.440 and 392.530, RSMo Cum. Supp. 1990, the Commission will assume that additional competition in the intraLATA and interLATA toll markets is in the public interest. The Commission does not deem it necessary to determine a public need for each reseller's services as the market would eliminate any reseller for which there is no public need. Consequently, pursuant to Section 392.440, RSMo Cum. Supp. 1990, the Commission finds that it is in the public interest to grant Applicant a certificate of service authority to provide intrastate interexchange telecommunications services.

Applicant proposes to provide the following services: long distance and alternative operator service. By its recommendation filed herein Staff states that other companies providing these same services have been granted competitive status. Therefore, Staff recommends that the Commission grant Applicant competitive status.

Based upon the verified statement of Applicant and Staff's recommendation, the Commission finds that all of the services Applicant proposes to offer are competitive and that Applicant should, therefore, be classified as a competitive company. The Commission further finds that the statutory and regulatory requirements waived in Case No. TO-88-142 for competitive companies and their services pursuant to Section 392.361, RSMo Cum. Supp. 1990, should be waived for Applicant, as listed hereinafter.

Pursuant to Section 392.470, RSMo Cum. Supp. 1990, the Commission determines that certain regulatory requirements should be imposed upon resellers authorized to provide telecommunications services in Missouri. Since the Applicant proposes to operate as a reseller of telecommunications services in this state, the Commission finds that the following regulatory requirements should be imposed upon Applicant as reasonable and necessary conditions of certification:

- (1) Applicant is required to comply with reasonable requests by the Staff for financial and operating data to allow the Staff to monitor the intraLATA toll market pursuant to Section 386.320.3, RSMo Cum. Supp. 1990;
- (2) Applicant is required to file tariffs containing rules and regulations applicable to customers, a description of the services provided and a list of rates associated with the services pursuant to Section 392.220, RSMo Cum. Supp. 1990, and 4 CSR 240-30.010;
- (3) Applicant is precluded from unjustly discriminating between and among its customers pursuant to Section 392.200, RSMo Cum. Supp. 1990, and Section 392.400, RSMo Cum. Supp. 1990;
- (4) Applicant is required by Sections 386.570, RSMo 1986, and 392.360,

RSMo Cum. Supp. 1990 to comply with all applicable rules of the Commission except those which are specifically waived by the Commission pursuant to Section 392.420, RSMo Cum. Supp. 1990;

- (5) Applicant is required to file a Missouri-specific annual report pursuant to Section 392.210, RSMo Cum. Supp. 1990, and Section 392.390.1, RSMo Cum. Supp. 1990;
- (6) Applicant is required, until the Commission orders otherwise, to submit to the Staff on a confidential basis, quarterly reports showing its percentage of interstate use and intrastate interLATA and intraLATA use pursuant to Section 392.390.3, RSMo Cum. Supp. 1990;
- (7) Pursuant to Section 392.390.3, RSMo Cum. Supp. 1990, Applicant is required to comply with the jurisdictional reporting requirements as set out in each local exchange company's access services tariff.

Finally, the Commission finds that Applicant should file appropriate tariffs within thirty (30) days of the effective date of this Report and Order. The certificate to be granted herein will become effective only upon approval by the Commission of these tariffs.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

Applicant proposes to provide service to the public as a competitive intrastate interexchange telecommunications and operator service company subject to the Commission's jurisdiction pursuant to Chapters 386 and 392, RSMo Cum. Supp. 1990.

Based upon the verified application of Applicant and the recommendation of its Staff, the Commission has found that Applicant has complied with the Commission's standards pertaining to applications requesting authority to provide intrastate interexchange telecommunications services and is qualified to perform said services. The Commission concludes that additional competition in the intrastate interexchange market is in the public interest and a certificate of service authority should be

granted. The Commission also has found that all the services Applicant proposes to offer are competitive. Therefore, the Commission concludes that Applicant should be classified as a competitive company pursuant to Section 392.361, RSMo Cum. Supp. 1990.

IT IS THEREFORE ORDERED:

1. That American Network Exchange, Inc. be granted hereby a certificate of service authority to provide intrastate interexchange telecommunications services and alternative operator services in Missouri. This certificate of service authority is subject to the conditions of certification set out herein and shall not become effective until the Commission approves Applicant's tariffs.

2. That American Network Exchange, Inc. be classified hereby as a competitive telecommunications company for which the effect of the following statutory and regulatory requirements shall be waived:

Section 392.240(1)	Commission ratemaking
Section 392.270	Property valuation
Section 392.280	Depreciation accounts
4 CSR 240-30.010(2)(C)	Copies of rate schedules
4 CSR 240-30.060(5)	Rate case requirements
4 CSR 240-32.030(1)(C)	Access line and grade of service complaints
4 CSR 240-32.050(3)	Information at business offices
4 CSR 240-32.050(4)	Telephone directories
4 CSR 240-32.050(5)	Call interception
4 CSR 240-32.050(6)	Telephone number changes
4 CSR 240-32.070(4)	Coin telephone]

3. That American Network Exchange, Inc. shall file tariffs within thirty (30) days of the effective date of this Report and Order.

4. That nothing contained herein shall be construed as a finding by the Commission of the value for ratemaking purposes of the properties herein involved, nor as an acquiescence in the values placed upon said properties by the Applicant.

5. That American Network Exchange, Inc. shall file with the Commission's Staff on a quarterly basis reports showing its percentage of interstate use and intrastate interLATA and intraLATA use. The first such report shall be filed in the next quarterly period following the effective date of this Report and Order and

quarterly thereafter on a confidential basis, unless otherwise ordered by the Commission.

6. That this Report and Order shall become effective on June 18, 1991.

BY THE COMMISSION

Brent Stewart

Brent Stewart
Executive Secretary

(S E A L)

Mueller, McClure and Perkins,
CC., Concur.
Steinmeier, Chm., and Rauch,
C., Absent.

Dated at Jefferson City, Missouri,
on this 7th day of June, 1991.